

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JO ANN HOWARD AND ASSOCIATES, P.C., )  
SPECIAL DEPUTY RECEIVER OF LINCOLN )  
MEMORIAL LIFE INSURANCE COMPANY, )  
MEMORIAL SERVICE LIFE INSURANCE )  
COMPANY, AND NATIONAL )  
PREARRANGED SERVICES, INC., ET AL., )

Plaintiffs,

V.

J. DOUGLAS CASSITY; RANDALL K. SUTTON; BRENT D. CASSITY; J. TYLER CASSITY; RHONDA L. CASSITY; ET AL., )  
)  
)

Defendants.

Case No. 09-CV-1252-ERW

## **JOINT STIPULATION OF UNDISPUTED FACTS**

1. Plaintiff SDR is the duly appointed and designated Special Deputy Receiver for National Prearranged Services (“NPS”), Lincoln Memorial Life Insurance Company (“Lincoln”), and Memorial Service Life Insurance Company (“Memorial”). The SDR is located in Austin, Texas.
2. Plaintiff the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”) is a Virginia non-stock corporation. It is a voluntary association of its members, which are all of the life and health insurance guaranty associations of the states of the United States of America, the District of Columbia, and Puerto Rico. NOLHGA is a plaintiff in this action as the assignee of claims for collection purposes only from the following state life and health insurance guaranty associations: Arizona, California, Colorado, District of Columbia, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North

Dakota, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Washington, West Virginia, Wisconsin, and Wyoming. Each of these guaranty associations are statutory entities created by their respective state legislatures to provide protection to their respective states' resident policyholders in the event of an insolvency of a member insurance company.

3. Plaintiffs Missouri Life and Health Insurance Guaranty Association, Texas Life and Health Insurance Guaranty Association, Illinois Life and Health Insurance Guaranty Association, Kansas Life and Health Insurance Guaranty Association, Oklahoma Life and Health Insurance Guaranty Association, Kentucky Life and Health Insurance Guaranty Association, and Arkansas Life and Health Insurance Guaranty Association are statutory entities created by their respective state legislatures to provide protection to their respective states' resident policyholders in the event of an insolvency of a member insurance company.
4. On May 14, 2008, the Texas Department of Insurance placed NPS, Lincoln and Memorial into receivership.
5. In 2008, the SDR was appointed to operate and eventually liquidate Lincoln, Memorial and NPS.
6. Together with the SDR, the state life and health insurance guaranty associations of forty-seven states developed a plan to provide coverage for the insurance policies issued by Lincoln and Memorial.
7. NPS was a St. Louis-based company that sold and marketed pre-need funeral contracts.
8. Lincoln and Memorial were life insurance companies.

9. National Heritage Enterprises (“NHE”) was the ultimate parent company to NPS, Lincoln, and Memorial, and another company called Forever Enterprises.
10. RBT Trust II owned and controlled NHE. RBT Trust II was created in 1990. The beneficiaries of the RBT Trust II were Rhonda Cassity, Brent Cassity, and Tyler Cassity.
11. Forever Enterprises, Inc. (f/k/a Lincoln Heritage Corporation) was a Texas corporation that conducted business in Missouri.
12. Forever Enterprises owned Memorial and indirectly owned Lincoln (a subsidiary of Memorial). Forever Enterprises was a sister company to NPS.
13. NPS established five separate trusts in Missouri (NPS Pre-Need Trusts I, II, III, IV, and V).
14. NPS Pre-Need Trusts I, III, IV, and V were governed by a trust agreement dated July 24, 1989.
15. NPS Pre-Need Trust II was governed by a trust agreement dated February 22, 1989.
16. The Mt. Washington Trust was governed by a trust agreement dated April 13, 2000.
17. The CSA Trust was governed by a trust agreement dated January 17, 1995.
18. Mark Twain Bank (“Mark Twain”), then Mercantile Trust Company (“Mercantile”), served as trustee of NPS Pre-Need Trust I from December 1996 until August 1998.
19. Mark Twain/Mercantile served as trustee of NPS Pre-Need Trust II from February 1989 until August 1998.
20. Mark Twain/Mercantile served as trustee of NPS Pre-Need Trust III from July 1989 until August 1998.
21. Mark Twain/Mercantile served as trustee of NPS Pre-Need Trust IV from February 1994 until August 1998.

22. Mark Twain/Mercantile served as trustee of NPS Pre-Need Trust V from July 1996 until March 1999.
23. Mark Twain/Mercantile served as trustee of CSA Trust from January 1995 to February 1998.
24. U.S. Bank is the successor to Mark Twain Bank and Mercantile Bank, and does not dispute that it has successor liability for Mark Twain Bank and Mercantile Bank's liabilities.
25. Allegiant Bank ("Allegiant") served as trustee of NPS Pre-Need Trust I from August 1998 to May 2004.
26. Allegiant served as trustee of NPS Pre-Need Trust II from August 1998 to May 2004.
27. Allegiant served as trustee of NPS Pre-Need Trust III from August 1998 to May 2004.
28. Allegiant served as trustee of NPS Pre-Need Trust IV from August 1998 to May 2004.
29. Allegiant served as trustee of NPS Pre-Need Trust V from March 1999 to May 2004.
30. Allegiant served as trustee of the CSA Trust from February 1998 to May 2004.
31. Allegiant served as trustee of the Mt. Washington Forever Pre-Need Trust from April 2000 to May 2004.
32. In August 1998, the assets of the NPS Pre-Need Trusts I-IV were transferred to Allegiant.
33. PNC Bank is the successor to National City Bank and Allegiant Bank, and does not dispute that it has successor liability for National City Bank's and Allegiant Bank's liabilities.
34. In May 2004, Allegiant resigned as trustee of the NPS and Forever trusts and transferred the accounts to Bremen Bank.
35. In July 2004, National City Bank acquired Allegiant.

Dated this 12<sup>th</sup> day of January, 2015.

Respectfully submitted,

s/ Wendy B. Fisher

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Attorneys for Plaintiffs Jo Ann Howard and Associates, P.C., in its capacity as Special Deputy Receiver of Lincoln Memorial Life Insurance Company, Memorial Service Life Insurance Company, and National Prearranged Services, Inc.; the National Organization of Life and Health Insurance Guaranty Associations; the Missouri Life & Health Insurance Guaranty Association; the Texas Life & Health Insurance Guaranty Association; the Illinois Life & Health Insurance Guaranty Association; the Kansas Life & Health Insurance Guaranty Association; Oklahoma Life & Health Insurance Guaranty Association; the Kentucky Life & Health Insurance Guaranty Association; and the as Life & Health Insurance Guaranty Association

**CERTIFICATE OF SERVICE**

I hereby certify that on January 12, 2015, the foregoing **JOINT STIPULATION OF UNDISPUTED FACTS** was filed electronically with the Clerk of Court and served by operation of the Court's electronic filing system upon all counsel of record in this case participating in Electronic Case Filing.

I hereby further certify that on January 13, 2015, the foregoing was sent by United States Postal Service or by electronic means, as indicated below, to the following non-participants in Electronic Case Filing:

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